

# State of South Dakota

## EIGHTY-SIXTH SESSION LEGISLATIVE ASSEMBLY, 2011

942S0021

### SENATE BILL NO. 59

Introduced by: Senators Lederman, Buhl, Holien, Krebs, and Sutton and Representatives Miller, Abdallah, Bolin, Boomgarden, Haggard, Hansen (Jon), Jensen, Kirkeby, Nelson (Stace), and Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions clarifying that counties are not  
2 responsible for constructing, repairing, and maintaining roads contained in improvement  
3 districts.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 31-12-26 be amended to read as follows:

6 31-12-26. Each board of county commissioners and county superintendent of highways in  
7 organized counties shall construct, repair, and maintain all secondary roads within the counties  
8 not included in any municipality, organized civil township, improvement district organized  
9 pursuant to chapter 7-25A, or county road district organized pursuant to chapter 31-12A.

10 Section 2. That § 31-12-27 be amended to read as follows:

11 31-12-27. Each board of county commissioners may levy annually a tax upon the taxable  
12 property within the county not included in any municipality, organized civil township,  
13 improvement district organized pursuant to chapter 7-25A, or county road district organized  
14 pursuant to chapter 31-12A, to carry out the provisions of § 31-12-26. If a county levies a tax,



1 the tax shall be certified, become payable and delinquent, and, if not paid, shall draw interest  
2 and penalty as other county taxes. The tax shall be used for such purposes.

3 Section 3. That § 10-13-36 be amended to read as follows:

4 10-13-36. The governing body of a taxing district may exceed the limit pursuant to § 10-13-  
5 35 through the imposition of an excess tax levy. The governing body of a taxing district may  
6 impose an excess tax levy with an affirmative two-thirds vote of the governing body on or  
7 before July fifteenth of the year prior to the year the taxes are payable. On any excess tax levy  
8 approved after July 1, 2002, the governing body of the taxing district shall specify in the  
9 resolution the year or number of years the excess tax levy will be applied.

10 The requirements for an announcement made pursuant to this section are as follows:

- 11 (1) The decision of the governing body to originally impose or subsequently increase an  
12 excess tax levy shall be published within ten days of the decision;
- 13 (2) Publication shall be made at least twice in the legal newspaper designated by the  
14 governing body pursuant to law, with no fewer than five days between publication  
15 dates, before the opt out takes effect;
- 16 (3) The announcement shall be at least three newspaper columns in width and four  
17 inches in length or at least one-sixth of a page in size, whichever size is greater;
- 18 (4) The announcement shall be headed with the following statement in a typeface no less  
19 than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY  
20 TAX INCREASE OF \$(fill in amount)." The remainder of the announcement shall  
21 consist of a reproduction of the "Resolution for Opt Out," including the amount that  
22 property taxes will be increased annually by the proposed opt out and a statement of  
23 the right to refer the decision of the board to a vote of the people as provided in this  
24 section. The secretary of revenue and regulation, in rules promulgated pursuant to

chapter 1-26, shall prescribe a uniform form to be used by the taxing district for notification of taxpayers as required by this section.

However, the requirements of subdivisions (3) and (4) shall be waived if:

(A) The opt out is for less than fifteen thousand dollars; or

(B) A copy of the resolution for opt out is mailed to every property taxpayer in the local governmental unit, by first class mail or bulk mail, within twenty days of the decision to opt out; and

(C) A copy of the resolution for opt out is printed in each official newspaper in the local governmental unit's boundaries.

For the purposes of subsections (A),(B),and(C), the first publication is not deemed to have occurred until three days after the mailing is sent or the resolution is delivered to the official newspaper.

The opt out decision may be referred to a vote of the people upon a resolution of the governing body of the taxing district or by a petition signed by at least five percent of the registered voters in the taxing district and filed with the respective governing body within twenty days of the first publication of the decision. The referendum election shall be held on or before October first preceding the year the taxes are payable. If the opt out is for the purpose of increasing the secondary road levy pursuant to § 31-12-27, only the registered voters within the area of the county not included in any municipality, organized civil township, improvement district organized pursuant to chapter 7-25A, or county road district organized pursuant to chapter 31-12 may petition or vote on the referred decision. The taxing districts may not exceed the levy limits provided in chapter 10-12 except for the provisions in § 10-12-36.

Section 4. That subdivision (5) of § 7-25A-1 be amended to read as follows:

(5) "District roads," all highways, streets, roads, alleys, sidewalks, storm drains, bridges,

1 and thoroughfares of all kinds and descriptions contained within the boundaries of  
2 the district;

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